

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TENNESSEE
WESTERN DIVISION

SHELTON SHERROD MARZETTE,)	
)	
Plaintiff,)	
)	
VS.)	No. 16-2498-JDT-tmp
)	
LINCOLN NATIONAL INSURANCE)	
COMPANY,)	
)	
Defendant.)	

ORDER ADOPTING REPORT AND RECOMMENDATION
TO DENY MOTION FOR DEFAULT JUDGMENT

The *pro se* Plaintiff, Shelton Sherrod Marzette, filed this civil action on June 23, 2016. (ECF No 1.) United States Magistrate Judge Tu M. Pham subsequently granted Plaintiff leave to proceed *in forma pauperis*. (ECF No. 5.) Magistrate Judge Pham also issued an order on June 27, 2016, directing that process be issued and served on the Defendant, Lincoln National Life Insurance Company (“Lincoln”). On August 8, 2016, Plaintiff filed a motion for default judgment, contending that more than twenty-one days had passed after service of process and that Lincoln had failed to file an answer. (ECF No. 11.) Lincoln responded in opposition to Plaintiff’s motion. (ECF No. 16.) On August 19, 2016, Magistrate Judge Pham issued a Report and Recommendation (“R&R”) in which he determined that Lincoln was not in default and recommended that Plaintiff’s motion for default judgment be denied. (ECF No. 17.) No objections to the R&R have been filed.

As the Magistrate Judge noted, Lincoln was served with process on July 18, 2016. (ECF No. 16 at 1.) On August 4, 2016, Lincoln requested and was granted an extension of time, through August 22, 2016, in which to respond to the complaint. (ECF Nos. 9 & 10.) An answer was filed on August 10, 2016. (ECF No. 12.) Therefore, Magistrate Judge Pham's conclusion that Lincoln was not in default is sound, and the R&R is ADOPTED. Plaintiff's motion for default judgment is DENIED.

IT IS SO ORDERED.

s/ **James D. Todd**
JAMES D. TODD
UNITED STATES DISTRICT JUDGE